

JAMES W. MCCLAIN
JMcCLAIN@GORDONREES.COM
DIRECT DIAL: (619) 230-7454



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GORDON & REES LLP

ATTORNEYS AT LAW
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101
PHONE: (619) 696-6700
FAX: (619) 696-7124
WWW.GORDONREES.COM

November 30, 2004

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: Examiner Christine Johnson
Art Unit 1725

Re: U.S. Patent Application No. 09/581,333
Applicants: Jobson et al.

Dear Ms. Johnson:

We are returning herewith the enclosed Office Action dated November 19, 2004, that was sent in error to our office. While the cover page has correct identification for U.S. Patent Application No. 09/724,883 (Applicant: Tomaschke), which is a patent application of one of our clients, the Office Action itself is for U.S. Patent Application No. 09/581,333, in the name of "Jobson et al." This latter application is not an application for which we are representatives, nor is the named applicant a client of ours.

We are therefore returning the entire document so that it can be resent by the Patent and Trademark Office to the correct applicant.

If you have any questions do not hesitate to contact me.

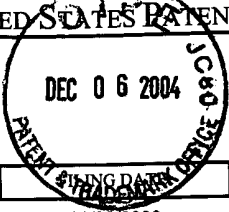
Very truly yours,
GORDON & REES LLP

James W. McClain
Reg. No. 24,536

JWM:pn
Enc.



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/724,883

11/28/2000

John Edward Tomaschke

7703-PA02

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27111

7590

11/19/2004

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101



EXAMINER

MENON, KRISHNAN S

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Mail Date Cancel
NOV 06 2004

Application No.

09/581,333

Applicant(s)

JOHNSON ET AL.

Examiner

Christina Johnson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-63 and 78-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-63 and 78-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____



DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 3, 2004 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 39-63 and 78-102 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 39 recites the limitation "said second porous structure being substantially free of said oxidation catalyst." It does not appear that the specification as originally filed contains support for this limitation. If applicant believes that this limitation is supported by the specification, the page and line number of such support is requested by the examiner.

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Claim 78 recites the limitation "said oxidation catalyst... substantially excluded from said outer layer." It does not appear that the specification as originally filed contains support for this limitation. The description in the specification appears to support limitations such as those found in claims 93. If applicant believes that this limitation is supported by the specification, the page and line number of such support is requested by the examiner.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 39-63 and 78-102 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 39 recites the limitation "said second porous structure being substantially free of said oxidation catalyst." The term "substantially" in claim 39 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

7. Claim 78 recites the limitation "said oxidation catalyst... substantially excluded from said outer layer." The term "substantially" in claim 78 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one

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of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

8. With respect to claim 78, it is not clear how the embodiments disclosed in claims 93 and 94 would further limit claim 78. It appears that claims 93 and 94 would describe alternate embodiments of the claimed structure.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Johnson whose telephone number is (571) 272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


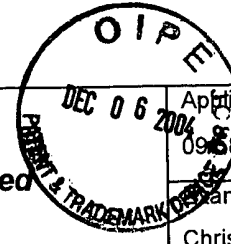
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christina Johnson
Patent Examiner
Art Unit 1725

11/17/04

CAJ
November 17, 2004

Application/Control No. 09/581,333	Applicant(s)/Patent Under Reexamination JOBSON ET AL.		
Examiner Christina Johnson	<table style="width: 100%;"> <tr> <td style="width: 50%;">Art Unit 1725</td> <td style="width: 50%;">Page 1 of 1</td> </tr> </table>	Art Unit 1725	Page 1 of 1
Art Unit 1725	Page 1 of 1		

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-2003/0069125	04-2003	Tissler et al.	502/60
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.